

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARTHUR ROUSE, et al.,

Plaintiffs,

Case No. 06-cv-10961

v.

HONORABLE STEPHEN J. MURPHY, III

PATRICIA CARUSO, et al.,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION (docket no. 267) AND DENYING MOTION
AND AMENDED MOTION FOR CLASS CERTIFICATION (docket nos. 249 and 250)**

This is a § 1983 civil rights case, filed by a prisoner and implicating conditions at state prison facilities in St. Louis, Michigan. It began as a pro se action in 2006. Plaintiffs are all former inmates at the St. Louis facilities; Defendants are officers and supervisors working for the Michigan Department of Corrections ("MDOC"). The Court referred the case to a Magistrate Judge for all pretrial proceedings. On August 14, 2012, Plaintiffs filed a motion and an amended motion for class certification. ECF Nos. 249, 250. In their motion, Plaintiffs seek to certify classes of current and former prisoners housed at the St. Louis facilities on or after February 14, 2005, and two subclasses of current and former prisoners at the same facility after November 1, 2002, who were subject to certain MDOC policies and practices.

The Magistrate Judge issued a report and recommendation ("Report"), ECF No. 267, on January 7, 2013. In his Report, the Magistrate Judge concluded the Court should deny both motions for Plaintiffs' failure to demonstrate they meet the standards for class certification under Fed R. Civ. P. 23(b). The Magistrate Judge found that the Plaintiffs

sought relief of the type ordinarily resolved through individualized damages claims, and did not demonstrate that relief sought would apply generally to a proposed class. The Magistrate Judge recommended denying the motion without prejudice to permit Plaintiffs to renew their motion if, in the future, they can "affirmatively demonstrate" they belong within the ambit of Rule 23(a) or (b)(3).

Civil Rule 72(b) governs review of a magistrate judge's report and recommendation. De novo review of the magistrate judge's findings is only required if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). Nevertheless, because a district judge always retains jurisdiction over a motion after referring it to a magistrate judge, he or she is entitled to review the magistrate judge's findings of fact and conclusions of law on his or her own initiative. *See Thomas v. Arn*, 474 U.S. 140, 154 (1985) (clarifying that while a district court judge need not review a report and recommendation "de novo if no objections are filed, it does not preclude further review by the district judge, sua sponte or at the request of a party, under a de novo or any other standard").

Because neither the plaintiff nor defendant filed objections, de novo review of the Report's conclusions is not required. Having reviewed the Report's analysis, in light of the record, the Court finds that its conclusions are factually based and legally sound. Accordingly, it will adopt the Report's findings and deny the motion for class certification.

ORDER

WHEREFORE, it is hereby **ORDERED** that Plaintiffs Motion and Amended Motion for Class Certification (docket nos. 249 and 250) are **DENIED**.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: February 13, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 13, 2013, by electronic and/or ordinary mail.

Carol Cohron
Case Manager